

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In Re:

EDWIN MOLEROS

Debtor.

Chapter 7

Case #: 1-18-40744-cec

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DANIEL HERNANDEZ,

Plaintiff

Adv. Proc. #: 1-18-01035-cec

- against -

EDWIN MOLEROS,

Defendant.
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**STIPULATION AND ORDER WITHDRAWING DEFENDANT’S MOTION TO DISMISS
PLAINTIFF’S SECOND CAUSE OF ACTION OF THE COMPLAINT, SEEKING RELIEF
UNDER 11 USC §727(A)(4)(A)**

WHEREAS, Defendant EDWIN MOLEROS, (hereinafter referred to as “Defendant”) filed a voluntary petition for relief under chapter 7 of Title 11, United States Code, 11 U.S.C. (Bankruptcy Code) on February 8, 2018; and

WHEREAS, Plaintiff DANIEL HERNANDEZ, (hereinafter referred to as “Plaintiff”) filed the instant adversary proceeding with the filing of a Summons and Complaint on March 17, 2018; and

WHEREAS, Plaintiff’s Second Cause of Action asserted claims for relief under 11 USC §727(A)(4)(A) based on allegedly false statements made on Debtor’s Schedule E/F representing the amount of debt owed to the Plaintiff; and

WHEREAS, at the time of the filing of the Defendant’s bankruptcy petition, a related case in Kings County Supreme Court entitled *Daniel Hernandez v. Hard Surface Restoration Inc., and Edwin Molerros*, under index No: 514069/2015, (hereinafter “Supreme Court Litigation”) was pending and any amounts owed were in dispute; and

WHEREAS, after litigation and trial, on or about July 2, 2019 the Hon. Carl J. Landicino issued a decision on the Supreme Court Litigation in favor of the Plaintiff, and the decision was entered in the Kings County Clerk’s Office on July 15, 2019; and

WHEREAS, on or about August 21, 2019, Defendant filed a motion with this Court seeking dismissal of Plaintiff's Second Cause of Action which asserted claims pursuant to 11 U.S.C. §727(a)(4)(A), and

WHEREAS, the parties have reached an agreement resolving Defendant's motion,
NOW, THEREFORE, it is HEREBY STIPULATED AND AGREED TO BY AND BETWEEN Plaintiff and Defendant as follows:

1. Plaintiff's Second Cause of Action asserting claims under 11 U.S.C. §727(a)(4)(A) is hereby withdrawn with prejudice;
2. Defendant's Motion to Dismiss Plaintiff's Second Cause of Action filed with this Court on August 21, 2019, is hereby withdrawn with prejudice;
3. Both sides preserve all other rights and defenses as it relates to the claims asserted under Plaintiff's First Cause of Action in Plaintiff's Complaint dated March 17, 2018.

/s/ Btzalel Hirschhorn
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**Dated: Brooklyn, New York
September 3, 2019**



Carla E. Craig
Carla E. Craig
United States Bankruptcy Judge